



(916) 445-8485

October 10, 1979

Mr. Adrian Kuyper
Orange County Counsel
P. O. Box 1379
Santa Ana, CA 92702

Attention: Mr. Laurence M. Watson
Deputy

Dear Mr. Watson:

This is in response to your September 24, 1979 letter to Mr. Glenn L. Rigby concerning the applicability of Revenue and Taxation Code subsections 997(a) and 997(c)(4) under the following circumstances:

The taxpayer, among other things, conducts a consumer reporting business. In the conduct of this business, the taxpayer obtains credit information (data) concerning many individuals which it uses to make credit reports to its subscribers. It records and stores this credit data in the form of electromagnetic impulses on metallic discs known as "disc packs" which it leases. The disc packs are physically located in computer equipment used to input and retrieve the data in accordance with programs written by the taxpayer. The disc packs are not for sale. However, the data stored thereon is used to produce credit reports which are sold.

If the disc packs are records which are held for sale in the ordinary course of business by the taxpayer, the value of the disc packs should include the value of the credit data encrypted thereon (subsection 997(c)(4)). If they are not records which are held for sale in the ordinary course of business, however, the value of the disc packs should exclude the value of the credit data encrypted thereon (subsection 997(a)).

Having followed Assembly Bill No. 1567 through the legislative process, we believe that Chief Consultant Doerr's November 21, 1977 letter to Senator Briggs, a copy of which you forwarded to us, accurately sets forth the background and

October 10, 1979

intent of Section 997, with the result that subsection 997(a) rather than subsection 997(c)(4) would be the applicable subsection. Section 997 was enacted to nullify the court's decision in *Western Title Guaranty Co. v. County of Stanislaus*, 41 Cal. App. 3d 733, that the intangible value of information compiled and indexed, as well as the value of the physical documents on which such information was included, was properly reflected in the valuation of the company's records for ad valorem property tax purposes. Hence, the specific provisions of subsection 997(a). As was the case in title plant situations, the taxpayer's records (disc packs) do have the ability to generate income, but as indicated, it is the data stored thereon in the form of credit reports rather than the disc packs themselves which is sold.

Very truly yours,

James K. McManigal, Jr.
Tax Counsel

JKM:rt

cc: Mr. Glenn Rigby

bc: Mr. Verne Walton (B. Florence)
Legal Section